

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

BAHSID McLEAN,

Plaintiff,

v.

9:20-CV-1115
(TJM/TWD)

AMY FERGUSON, et al.,

Defendants.

APPEARANCES:

BAHSID McLEAN
16-A-5033
Plaintiff, pro se
Auburn Correctional Facility
P.O. Box 618
Auburn, NY 13021

HON. LETITIA JAMES
New York State Attorney General
Attorney for Defendants Ferguson, Koenigsmann,
Visalli, and Fennessey
The Capitol
Albany, NY 12224

AIMEE COWAN, ESQ.
Assistant Attorney General

THOMAS J. McAVOY
Senior United States District Judge

DECISION AND ORDER

Plaintiff Bahsid McLean commenced this action in September 2020. Plaintiff asserted claims arising from allegations that defendants violated his constitutional rights and state law based on the medical treatment he received while he was confined in Mid-State Correctional Facility. *See generally* Dkt. Nos. 1, 4. Although plaintiff's original complaint named some "John Doe" defendants, plaintiff filed an amended complaint on or about December 30, 2020,

identifying those individuals by name. Dkt. No. 11. The amended complaint is the operative pleading in the action.

Upon review of the amended complaint under 28 U.S.C. § 1915 and 28 U.S.C. § 1915A, this Court determined that some of plaintiff's claims asserted in the amended complaint survived review and required a response. Dkt. No. 20. Accordingly, in light of plaintiff's in forma pauperis status, the Court issued summonses for the defendants, including "Nurse Rowick," and directed the United States Marshal Service to effectuate service on plaintiff's behalf. See Dkt. Nos. 4, 20. The record now reflects that all of the defendants except defendant Nurse Rowick have been served with process and have appeared through counsel in the action. See Dkt. Nos. 32, 36. On June 25, 2021, the Court issued an Order to Show Cause to plaintiff directing him to file an affidavit with the Court showing cause why the claims asserted against defendant Rowick should not be dismissed pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. Dkt. No. 38. Plaintiff was warned that his "failure to comply with th[e Order to Show Cause would] result in the dismissal of the claims asserted against defendant Rowick for failure to serve." *Id.* at 3-4.

As of today's date, there is no record that service of process has been effectuated on defendant Rowick, nor has plaintiff provided the Court with good cause for the failure to complete service upon that individual.

WHEREFORE, it is hereby

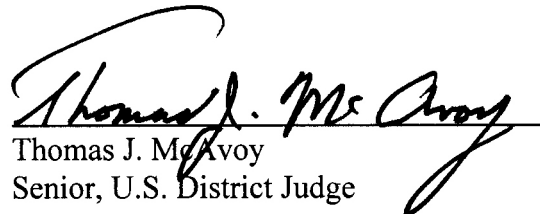
ORDERED that plaintiff's claims asserted against defendant Rowick in plaintiff's amended complaint are **DISMISSED without prejudice**; and it is further

ORDERED that the Clerk of the Court shall **TERMINATE** defendant Rowick from the docket as a party; and it is further

ORDERED that the Clerk shall serve a copy of this Decision and Order on plaintiff.

IT IS SO ORDERED.

DATED: August 16, 2021


Thomas J. McAvoy
Senior, U.S. District Judge